

Notice of Allowability

Application No.

10/674,350

Applicant(s)

SCHINDLER ET AL.

Examiner

Tamthom N. Truong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to AF amendment of 9-27-05.
2. ☒ The allowed claim(s) is/are 11-19,22-25 and 27-34.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 9/497,723.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 10/1/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date attached.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

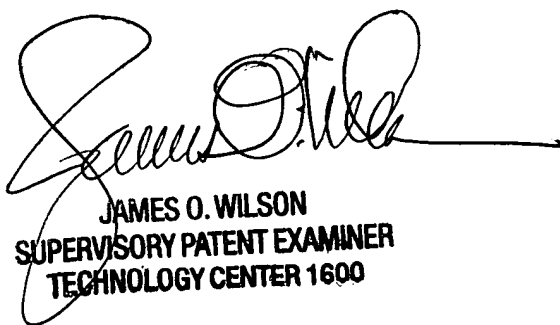
Authorization for this examiner's amendment was given in a telephone interview with Ms. Denise Main on 10-12-05.

The application has been amended as follows:

Claim 11: Page 2 (of the amendment), line 16 (from top), delete the phrase **"naphthyl groups, pyridyl groups"** since these groups have been deleted from the definition of R^1 and R^2 . At the end of line 16, delete the letter **"s"** from the word 'groups' so as to put it in a singular form.

Page 2, on the last line, delete **"-NH-CHO-"** (a divalent group), and insert -- -NH-CHO -- (a monovalent group) in its place.

Page 3, line 17 (from top), delete the phrase **"wherein m is 0, 1 or 2"** because $S(O)_m$ has already been deleted from claim 11.



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TECHNOLOGY CENTER 1600

Allowable Subject Matter

Applicant's amendment of 9-27-05 has overcome the previous rejections of 112/1st and 2nd paragraphs and 103 based on **Lee et. al.** (US'233) by reciting specific diseases in claim 29, and by deleting rejected limitations in claim 11.

Applicant's terminal disclaimer of 10-13-05 has also overcome the previous rejection of Obviousness-type Double Patenting.

Claims 20, 21 and 26 have been cancelled.

With no other outstanding rejection, pending claims 11-19, 22-25 and 27-34 are allowed.

The following is an examiner's statement of reasons for allowance:

The invention is drawn to compounds of substituted (4-cycloalkyl-amino)-tetrahydroquinazoline. The teaching of **Lee et. al.** (US'233 – cited previously) does not disclose any species in which the cycloalkyl is directly attached to the amino group. Its generic teaching is much too broad for a prima facie case of obviousness. The generic teaching of **Giencke et. al.** (US'530 – cited previously) is also too broad for a prima facie case of obviousness -- see **In re Baird**, 16 F.3d 380, 382, 29 USPQ2d 1550, 1552 (Fed. Cir. 1994). Both references have different utilities, and thus, cannot be combined to render obvious the instant claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamthom N. Truong whose telephone number is 571-272-0676. The examiner can normally be reached on M-F (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

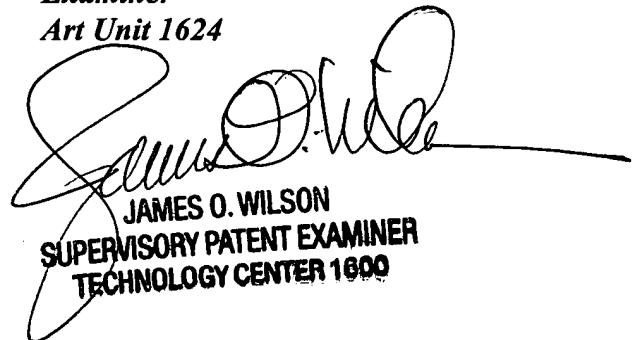


Tamthom N. Truong

Examiner

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10-14-05



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